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8 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 ERIC MCCURDY,

11 Plaintiff,

12 v.

13 SEATTLE SCHOOL DISTRICT,

14 Defendant.

CASE NO. C18-1868 MJP

ORDER ON REMAND

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16 The Court, having received and reviewed:

- 17 1. Defendant Seattle Public Schools' Motion to Dismiss (Dkt. No. 9),
18 2. Plaintiff's Revised Response to Motion to Dismiss and Motion to Remand (Dkt. No.
19 12),
20 3. Defendant Seattle Public Schools' Reply in Support of Motion to Dismiss (Dkt. No.
21 13),

22 all attached declarations and exhibits, and relevant portions of the record, rules as follows:

23 IT IS ORDERED that Defendant's motion to dismiss is DENIED.
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1 IT IS FURTHER ORDERED that Plaintiff's motion to remand is GRANTED, and this
2 matter is REMANDED to state court.

3 **Procedural history**

4 This lawsuit was originally filed in state court pursuant to a statute granting "any
5 person... aggrieved by any decision or order of any school official or board," the right to "appeal
6 the same to superior court of the county in which the school district... is situated." RCW
7 28A.645.010.

8 On December 27, 2018, Defendant removed the matter from King County Superior
9 Court, on the grounds that Plaintiff's allegations that he had been deprived of property rights and
10 liberty without due process of law "in violation of the Constitution of the United States"
11 conferred original jurisdiction on this Court. (Dkt. No. 1 at ¶¶ 4-5.) Shortly thereafter,
12 Defendant filed a motion to dismiss pursuant to FRCP 12(b)(6). In responding to that motion,
13 Plaintiff also moved to remand his case to state court.

14 **Discussion**

15 In his brief responding to Defendant's motion to dismiss, Plaintiff states unequivocally
16 that his allegations "*are not federal claims* but errors justifying statutory appeal." (Dkt. No. 12-
17 1, Revised Response at 3; emphasis supplied.) It is clear from this representation, as well as his
18 request to remand the matter to state court, that Plaintiff never intended to invoke federal
19 jurisdiction in his lawsuit.

20 The Court takes Plaintiff at his word when he states that he only intended to litigate state
21 law claims in his appeal under RCW 28A.645.010. The Court grants Plaintiff's (implied)
22 request to strike any references to federal claims and to violations of the United States
23 Constitution.

1 This leaves only Plaintiff's state law claims. Defendant has challenged the entirety of
2 Plaintiff's allegations by means of its 12(b)(6) motion, but at this point the Court is devoid of any
3 basis to retain jurisdiction and rule any further. Defendant's motion to dismiss will be DENIED,
4 and the matter will be REMANDED to state court for further proceedings.

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7 The clerk is ordered to provide copies of this order to all counsel.

8 Dated January 31, 2019.

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11 Marsha J. Pechman
12 United States Senior District Judge
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